

LATHAM & WATKINS LLP  
Steven N. Feldman (Bar No. 281405)  
steve.feldman@lw.com  
355 South Grand Avenue  
Los Angeles, California 90071  
(213) 485-1234

LATHAM & WATKINS LLP  
Shlomo Fellig (pro hac vice)  
shlomo.fellig@lw.com  
200 Clarendon Street  
Boston, Massachusetts 02116  
(617) 948-6000

*Attorneys for Defendant Whaleco Inc.*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

ELI SILVA, on behalf of himself  
and all others similarly situated,

Plaintiff,

v.

WHALECO, INC., d/b/a TEMU,  
Defendant.

Case No. 3:24-cv-02890-SK

**SUPPLEMENTAL DECLARATION OF  
MICHAEL TRINH IN SUPPORT OF REPLY  
IN SUPPORT OF DEFENDANT  
WHALEO INC.'S MOTION TO  
COMPEL ARBITRATION**

Judge: Sallie Kim  
Date: September 23, 2024  
Time: 9:30 am  
Courtroom: C

1 I, Michael Trinh, declare as follows:

2 1. I have reviewed the complaint (the “Complaint”), and I make this Declaration in  
3 support of Defendant’s Reply in Support of Motion to Compel Arbitration. The facts set forth  
4 herein are based on my personal knowledge and review of company records, and, if called upon  
5 to do so, I can and will competently testify to these facts.

6 2. I incorporate by reference and reiterate each paragraph of my July 15, 2024  
7 Declaration in Support of Defendant’s Motion to Compel Arbitration (the “July 15 Declaration”),  
8 attached hereto as Exhibit A.

9 3. Paragraphs 3 through 10 of my July 15 Declaration refer to the registration flow in  
10 effect in the February 2024 period described in Paragraph 2 of the July 15 Declaration, including  
11 on February 21, 2024; likewise, Figures 1 and 2 show the Registration Prompts displayed to users  
12 in February 2024, including on February 21, 2024.

13 4. I am a Customer Service Manager at Whaleco Inc. (doing business as “Temu”). I  
14 have held this position at Temu since October 2022. In my current position, I am responsible for  
15 managing customer service. In this role, including during February 2024, I have responsibilities  
16 related to, and am thoroughly familiar with, how users sign up for an account on Temu’s website,  
17 www.temu.com (the “Temu Website”) or mobile application (the “Temu App”), and how Temu  
18 notifies users of, and requires them to accept, its Terms of Use (the “Terms”).

19 5. In the course of Temu’s regularly conducted business activity, Temu maintains  
20 databases of account records, including records of when a user first registered for their account,  
21 the device they used to register for the account, how they chose to register (*e.g.*, through their  
22 phone number or email, or through a preexisting Google, Facebook, Apple, or X (Twitter)  
23 account), the number of subsequent logins associated with the account, and the purchase history  
24 of the account.

25 6. Before making purchases on the Temu Website in February 2024 (including on  
26 February 21, 2024)—when, as discussed below, Plaintiff created his Temu account—users were  
27 required to accept Temu’s Terms. Paragraphs 3 through 8 of the July 15 Declaration further  
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1 describe the registration process in effect throughout February 2024, including on February 21,  
2 2024.

3 7. I have reviewed Temu's records related to Plaintiff's Temu account, which was  
4 identified based on the factual information described in the Complaint, including Plaintiff's name,  
5 purchase date, and items purchased.

6 8. Temu's records show that Plaintiff went through the account registration process  
7 described in Paragraphs 3 through 8 of the July 15 Declaration, thereby assenting to Temu's Terms.

8 9. Specifically, Temu's records show that on February 21, 2024, Plaintiff was shown  
9 two Registration Prompts on the Temu Website (as depicted in Figures 1 and 2 of the July 15  
10 Declaration) and registered for an account with his email address. Plaintiff then completed the  
11 registration process by setting a password for his account and clicking "Register."

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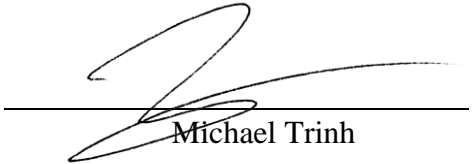
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1 I declare under penalty of perjury that the foregoing is true and correct, and that I executed  
2 this Declaration on September 4, 2024, in Boston, Massachusetts.

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4  
5 Dated: September 4, 2024

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7   
8 Michael Trinh